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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,069	11/21/2001	John R. Kane	31976.2000	1481

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EXAMINER

ROLLINS, ROSILAND STACIE

ART UNIT PAPER NUMBER

3739

DATE MAILED: 02/25/2004

SW

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,069

Applicant(s)

KANE ET AL.

Examiner

Rosiland S Rollins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6-20, 32-40, 42-46, 48, 50-63, 75-78, 80, 82-92, 101-113 and 116-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1,2,4,6-20,32-40,42-46,48,50-63,75-78,80,82-92,101-113 and 116-120.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6, 7, 34-40, 42, 45-51, 54-63, 103-105, 107, 110, 111, 113 and 115-120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grahm (US 56833438) further in view of Grahm et al. (US 2002/0019653). Grahm teaches all of the limitations of the claims except for the specific construction of the chamber. Grahm et al. teach a similar device that includes heating or cooling elements where the chamber includes a base member (114), a moveable member (112) and fasteners (120). It would have been obvious to one having ordinary skill in the art at the time of invention to construct the chamber of Grahm with a base and moveable portion as in Grahm et al. in order to ensure easier sterilization of the device between uses.

3. Claims 32, 33, 75-78, 80, 82, 83, 86-92, 94, 101, 102, 108, 109, 112 rejected under 35 U.S.C. 103(a) as being unpatentable over Grahm (US 56833438) further in view of Grahm et al. (US 2002/0019653). Grahm teaches all of the limitations of the claims except for the specific construction of the chamber. Grahm et al. teach a similar device that includes heating or cooling elements where the chamber includes a base member (114), a moveable member (112) and fasteners (120). It would have been obvious to one having ordinary skill in the art at the time of invention to construct the

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chamber of Grahm with a base and moveable portion as in Grahm et al. in order to ensure easier sterilization of the device between uses.

4. Claim 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grahm '438 further in view of Cho et al. Grahm teaches all of the limitations of the claim except for the seal containing a bladder. Cho et al. disclose a similar device where air bladders are used to create a pneumatic seal in a chamber containing a users hand. It would have been obvious to one of ordinary skill in the art at the time of invention to use a bladder seal as in Cho et al. in the device of Grahm as an effective means to seal a body portion inside the chamber

5. Claims 8, 9, 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grahm '438 and Grahm et al. '653 further in view of Cho et al. Grahm and Grahm et al. teach all of the limitations of the claims except for the seal containing a bladder. Cho et al. disclose a similar device where air bladders are used to create a pneumatic seal in a chamber containing a users hand. It would have been obvious to one having ordinary skill in the art at the time of invention to use a bladder seal as in Cho et al. in the combined device of Grahm and Grahm et al. as an effective means to seal a body portion inside the chamber.

6. Claims 84 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grahm '438 and Grahm et al. '653 further in view of Cho et al. Grahm and Grahm et al. teach all of the limitations of the claims except for the seal containing a bladder. Cho et al. disclose a similar device where air bladders are used to create a pneumatic seal in a chamber containing a users hand. It would have been obvious to one having ordinary

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skill in the art at the time of invention to use a bladder seal as in Cho et al. in the combined device of Grahn and Grahn et al. as an effective means to seal a body portion inside the chamber.

7. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grahn '438 and Grahn et al. '653 further in view of Borders (US 6149674). Grahn and Grahn et al. teach all of the limitations of the claim except for the third and fourth cuffs at the distal end of the chamber. Borders teaches a similar device that includes cuffs at the proximal and distal end of a chamber so that a portion of an extremity can be enclosed without the distal end of the extremity being enclosed within the chamber. It would have been obvious to one of ordinary skill in the art at the time of invention to include cuffs at the distal end of the chamber of Grahn and Grahn et al. as in Borders in order to provide thermal energy to a portion of an extremity not including the distal end of the extremity.

8. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grahn '438 and Grahn et al. '653 further and Borders further in view of Cho et al. '807. Grahn, Grahn et al. and Borders teach all of the limitations of the claim except for each cuff containing a bladder. Cho et al. disclose a similar device where air bladders are used to create a pneumatic seal in a chamber containing a user's hand. It would have been obvious to one of ordinary skill in the art at the time of invention to use a bladder seal as in Cho et al. in the combined device as an effective means of sealing a body portion inside of the chamber.

Response to Arguments

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9. Applicant's arguments filed 12/02/03 have been fully considered but they are not persuasive. Applicant has amended all of the independent claims to recite a chamber for enclosing a body portion of a mamma. And the chamber comprising a base member, a moveable member which matingly engages the base member and a fastener which maintains engagement of the base member with the moveable member. The body portion is enclosed in the chamber by moving the moveable member towards the base member. The body portion is removed from the chamber by moving the moveable member away from the base member. Applicant then argues that the Grahn et al. '653 which was applied to the dependent claims that recited the above limitations does not teach or suggest a base and cover that can move towards one another to enclose the body portion or move away to remove the body portion. While Grahn et al. does not recite the functional recitations it does meet all of the structural limitations which would make it capable of performing the functions of the intended use.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosiland S Rollins whose telephone number is 703/3082711. The examiner can normally be reached on Mon.-Fri. 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 703/3080994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rosiland S Rollins
Primary Examiner
Art Unit 3739

RR